



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[NRC-2014-0142]

Guidance for Conducting the Section 106 Process of the National Historic Preservation Act for Uranium Recovery Licensing Actions

AGENCY: Nuclear Regulatory Commission.

ACTION: Interim staff guidance; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Final Interim Staff Guidance (ISG) NMSS-ISG-02, “Guidance for Conducting the Section 106 Process of the National Historic Preservation Act for Uranium Recovery Licensing Actions.” The purpose of this final ISG is to assist the staff in conducting the Section 106 consultation process of the National Historic Preservation Act of 1966 (NHPA) for uranium recovery licensing actions. This ISG is primarily intended for the NRC staff and does not impose new or changes to regulatory requirements. The ISG, however, provides useful information to participants in the Section 106 process of the NHPA for uranium recovery licensing actions.

DATES: This guidance takes effect on **[INSERT 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Please refer to Docket ID **NRC-2014-0142** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <https://regulations.gov> and search for Docket ID **NRC-2014-0142**. Address questions about docket IDs in Regulations.gov to Jennifer Borges; telephone: 301-287-9127; e-mail: Jennifer.Borges@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Diana Diaz-Toro, Office of the Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC, 20555-0001; telephone: 301-415-0930 or e-mail: Diana.Diaz-Toro@nrc.gov.

SUPPLEMENTARY INFORMATION:

The NRC is responsible for regulating the civilian use of nuclear materials and facilities in a manner that protects public health and safety from radiological hazards and protects common defense and security. The NRC has statutory authority to regulate and license uranium recovery activities through the Atomic Energy Act of 1954, as amended, and also through the Uranium Mill Tailings Radiation Control Act of 1978, which established programs for the stabilization and control of mill tailings at uranium or thorium mill sites. In addition to the NRC staff's safety review of a license application

submittal, the NRC staff conducts an environmental review, as required under the National Environmental Policy Act of 1969, as amended, and the Section 106 process in accordance with the NHPA.

Section 106 of the NHPA requires federal agencies to take into account the effects of their undertakings on historic properties and allow the Advisory Council on Historic Preservation an opportunity to review and comment on the undertaking. Federal agencies carry out the Section 106 process in consultation with the State Historic Preservation Officer, Tribal Historic Preservation Officer, other federal, state, and local governmental agencies, tribal governments, additional consulting parties, and the public. In accordance with the NHPA-implementing regulations in section 800.1(c) of title 36 of the *Code of Federal Regulations*, the NRC must complete the Section 106 process prior to making its decision on the request for the licensing action.

Between 2007 and 2017, the NRC experienced an increase in the number of licensing actions for in situ uranium recovery facilities that resulted in an increase in the NRC staff's efforts and activities related to the NHPA Section 106 reviews. Several factors contributed to the increase in the scope and complexity of the Section 106 reviews. Therefore, the NRC took a number of steps to improve the Section 106 process for uranium recovery licensing actions. One of these steps was the development of this ISG.

On June 18, 2014 (79 FR 34792), the NRC published the ISG in draft form for public review and comment. The public comment period was extended through November 17, 2014 (79 FR 52374). The NRC then considered the public comments on the draft ISG in preparing the final report (ADAMS Accession No. ML19212A753). The responses to the comments can be found in the comment response appendix (Appendix B of the ISG; ADAMS Accession No. ML19212A752).

This ISG is not a rule as defined in the Congressional Review Act (5 U.S.C. 801–808).

Dated at Rockville, Maryland, this 13th day of September, 2019.

For the Nuclear Regulatory Commission.

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